closely approximate the TSLRIC requirements contained in the MTA for pricing of local interconnection services during 1996. The Panel also proposes that should a determination be reached by this Commission on the TSLRIC studies pending in Case Nos. U-11155, U-11156 and Ameritech Advice No. 2438B to support different pricing conclusions for services addressed in this proceeding, it would be appropriate to reflect these altered prices in the parties' interconnection agreement. Further, should a new pricing proceeding before this Commission occur next year, amended interconnection rates may again be incorporated in the subject contract. The FCC originally intended to define its costing methodology more closely and review its adopted proxies in another proceeding early next year. This (¶¶ 790, 835 and 1055) may in turn create the need for further state proceedings as well. A state proceeding still may be appropriate either in response to further specification by the FCC or the courts of pricing rules under the Act, or in response to a request by providers for altered interconnection rates under the just and reasonable language applicable under the MTA after 1996. In any case, the Panel believes that these possible changes should be anticipated. TSLRIC-based rates adopted in this proceeding should be adopted as interim rates and should be amended in compliance with new pricing proceedings at the federal or state level should these occur next year. A further discussion of these issues follows.

In its Order, the FCC determined that TELRIC plus an allocation of common and joint cost was the appropriate price for interconnection, unbundled network elements and collocation. In calculating its prices, AT&T utilized previously developed Ameritech TSLRIC studies adjusted to include or remove, depending on the services, common and residual costs as well as to restore the TSLRIC study assumptions to those used when Ameritech studies it own retail services. Ameritech,

on the other hand, totally recalculated costs based on its interpretation of the TELRIC approach adopted by the FCC. The questions thus facing the Panel are twofold. First, is TELRIC significantly different than TSLRIC? And second, were the cost studies submitted a proper reflection of TELRIC?.

According to the costing principles adopted by this Commission in Case No. U-10620, joint costs are considered part of TSLRIC whereas common costs are not. Michigan's cost methodology is applicable to network elements (as opposed to services) and is therefore also consistent with a TELRIC methodology. Neither methodology is based on a rate base proceeding which is prohibited by the Act. Both methodologies include profit as permitted by the Act. If TELRIC includes both joint and common costs and TSLRIC includes only joint costs, then essentially, the only significant difference between TELRIC and TSLRIC should be the inclusion of common costs. By adopting a TELRIC approach in pricing unbundled network elements, the FCC determined that the recovery of common costs is a costing issue as opposed to a pricing issue as is the case under Michigan's TSLRIC approach. Beyond common costs, the Panel believes there are no significant differences between the two methodologies.

If common costs are the only significant difference between the two methodologies, then the prices proposed by each party in this proceeding should be relatively close. That was not the case. For example, there was over a 100% difference in the proposed prices for unbundled loops. Even more extreme were the basic port prices. Ameritech's proposed price was almost 20 times the price proposed by AT&T. The Panel does not believe the small changes reflected in the FCC's TELRIC methodology from the traditional TSLRIC methodology justify such a vast cost difference.

Differences of this magnitude are due in large part to Ameritech prices. Ameritech's loop price for Zone A alone (the lowest rate of the three proposed zones) exceeds the FCC proxy ceiling for all Michigan loops. It is the opinion of the Panel that Ameritech's prices for interconnection, unbundled network elements and collocation are unreasonably high when compared to other TSLRIC information presented before this Commission in other proceedings.

The Panel is also concerned that the new TELRIC studies were developed and filed by Ameritech only two and one-half weeks after the FCC's Order was issued in CC Docket 96-98. The ability to incorporate a new costing methodology specified in a 700 page Order in so brief a period of time appears highly questionable to the Panel. Ameritech replies that it anticipated the TELRIC methodology adopted by the FCC Order and was able to file cost information based on the TELRIC methodology in order to support its position in this arbitration proceeding by August 26, 1996. Ameritech stated that it had met with the FCC staff in April 1996 prior to the issuance of the FCC Order so as to ensure that its approach would comport with the FCC's requirements. Since the FCC only issued its Notice for comments in this docket in April 1996, it is difficult to believe it had already established all facets of its new cost methodology at that time.

Ameritech's new TELRIC studies were initiated in June of 1996 and completed on July 30, 1996. (Joint Application of TCG Detroit and AT&T filed on August 23, 1996, p. 3). Ameritech further modified its TELRIC studies after the August 8, 1996 release of the FCC Order. These modifications were filed with the Commission as a supplemental statement in this subject proceeding on August 27, 1996 and resulted in Ameritech adjusting its proposed rates for local transport and termination. In evidence presented before the Panel, Ameritech indicated its new studies employed

the same fundamental methodology as it had in earlier TSLRIC studies but modified assumptions in three primary areas: depreciation lives, cost of capital and network utilization or fill factors. (Palmer's Testimony, p. 8). In addition, Ameritech, hired an outside consultant for the sole purpose of analyzing and attributing joint and common costs.

The Panel notes that this Commission rejected Ameritech's cost studies for some interconnection services in its September 12, 1996 Order in Case Nos. U-10860, U-11155 and U-11156. While these proceedings were held pursuant to the MTA, the Commission found flaws in the cost studies in areas where Ameritech indicates changes have been made in the new studies submitted in this proceeding (e.g. cost of money, depreciation and fill factors). The Panel similarly questions these cost assumptions incorporated in Ameritech's new studies filed in this case. First, the FCC Order specifically states that the incumbent LEC bears the burden of demonstrating with specificity that the business risks they face in providing unbundled network elements would justify a different risk-adjusted cost of capital or depreciation rate (¶ 702). That support is lacking. Second, the mere mention of using reasonably accurate fill factors by the FCC is no justification for Ameritech adjusting its network utilization factors. Prior to the issuance of the FCC Order on August 8, 1996, Ameritech was required to utilize fill factors in TSLRIC studies that reflected efficient use of its network as well. The Panel finds no evidence to support an immediate change in fill factors. Finally, Ameritech's analysis of joint and common costs was a very large and comprehensive undertaking. This study was Ameritech's initial undertaking of identifying joint and common costs. A complete review of this cost study which identifies significant new joint and common costs was not possible given the specified timeframes of the arbitration proceeding. With regard to this analysis, the Panel

makes the following observations. First, the allocation method used to distribute these costs was based on extended TELRIC costs which are based on the revised cost assumptions found to be inappropriate by the Panel. Second, determination of the costs and the allocation method is dependent on forecasted units. The forecast of unbundled network elements needs to be closely scrutinized beyond the presentation before the Panel.

It is the view of the Panel that Ameritech may have greatly exaggerated the effects of the FCC's new cost methodology. By modifying three cost assumptions and identifying new joint and common costs, Ameritech's TELRIC prices exceed earlier studies utilizing the same fundamental methodology by a ratio of at least 2 to 1 for many services. The Panel does not believe that is an appropriate result of the FCC's new TELRIC methodology.

AT&T's cost estimates for the Ameritech services it proposes to purchase are based on Ameritech's TSLRIC unbundled cost study results (developed prior to the issuance of the FCC's Order) provided informally during interconnection negotiations or on information presented before this Commission. As indicated above, AT&T adjusted Ameritech's TSLRIC studies to remove certain costs and to restore the cost assumptions previously used in earlier TSLRIC studies. In determining its proposed prices, AT&T attempted to modify the TSLRIC studies to conform to the FCC's TELRIC requirements. AT&T simply performed "some algebra" on Ameritech's studies and applied a factor (Tr. 119). The cost information presented by AT&T consisted only of final cost results. It did not include any cost study workpapers or other underlying detail. The Panel therefore concludes that AT&T's cost studies are less than precise estimations of TELRIC. The Panel would point out, however, that while AT&T's prices were calculated in essence by adjusting Ameritech TSLRIC

information, the results are consistent with TSLRIC information presented before this Commission by Ameritech over the last two years.

Based on the observations discussed above, the Panel rejects the cost studies proposed by both AT&T and Ameritech as they relate to TELRIC. The Panel does not believe that either party's studies are a true reflection of TELRIC as presented. It is the view of the Panel that the supporting cost studies and the cost methodology adopted by the FCC are highly complex, requiring a thorough review beyond the short timeframe inherent in this arbitration proceeding. Despite the very limited timeframe, however, the Panel was able to identify several deficiencies in the TELRIC studies submitted by both AT&T and Ameritech. The FCC also established default proxies to be utilized until complete analysis and formal cost studies could be adopted (¶ 619 of the Order). These proxies have now been stayed by the Eighth Circuit of the U.S. Court of Appeals. The Panel notes, however, that Ameritech's proposed prices exceed these proxies in almost every instance.

Further, the Panel notes that while AT&T's cost studies have been rejected on the basis of a TELRIC methodology, the studies are more consistent with the TSLRIC methodology delineated by the Commission in Case No. U-10620. This TSLRIC standard is in compliance with the MTA and is consistent with the Act. As noted previously, updated Ameritech TSLRIC studies are now pending before the Commission for some interconnection services.

The Commission's arbitration procedures delineated in Case No. U-11134 state the Panel will select either the proposal of party A or B except when the "results would be clearly unreasonable or contrary to the public interest." Therefore, in most cases the Panel has adopted one party's proposal despite either noted deficiencies, inability to completely review all information in the timeframes

available, or the fact that more recent information may be pending before the Commission for some of the services. The Panel, therefore, adopts these prices as interim prices. While some deficiencies have been noted in AT&T's cost studies, the Panel, however, has determined that AT&T's prices are appropriate for many services. When and if TSLRIC studies pending in Case Nos. U-11155, U-11156 and in Ameritech Advice 2438B are approved, the Panel believes these prices should immediately replace those set forth herein for the specified services. In some instances, the Panel has decided to adopt other interim prices for reasons discussed in regard to that specific item.

The Panel notes that the FCC indicated that it would be issuing further orders outlining an appropriate costing methodology and proxies in the first quarter of 1997 (¶¶ 790, 835 and 1055 of the FCC Order). Given the stay of the FCC Order and the appeals that will be considered early next year, the FCC may or may not carry out the cost proceeding it originally contemplated. However, refinements will in all likelihood occur. In addition, under the MTA a party may propose different prices for interconnection services in 1997 when a "just and reasonable" pricing standard replaces the TSLRIC standard now in effect. In particular, further review of the common cost issue may be appropriate at that time. Federal or state action may result in further proceedings next year where new prices may be proposed for interconnection services. It should be noted that on August 26, 1996, AT&T filed a joint application with TCG Detroit requesting this Commission to sever the ILEC's cost studies from the arbitration cases and to initiate a separate proceeding. It is the Panel's proposal that if a separate proceeding on these matters is initiated by this Commission next year, that proceedings should include a notice of opportunity to comment by all affected parties and that proceeding result in the creation of a written factual record that is sufficient for purposes of review.

This standard is contained in the FCC rules stayed by the Eighth Circuit of the U.S. Court of Appeals (47 C.F.R. 51.505(e)(2)). Should new prices result from such a proceeding, amendments to this Agreement are appropriate.

ISSUE 2

What discount from retail prices should be set for the services AT&T purchases from Ameritech for resale?

DECISION:

It is the decision of the Panel to utilize a 25% discount on Ameritech's retail prices to be purchased by AT&T. This discount should be applied uniformly to all Ameritech services. AT&T's proposed Schedule 10.1 should be adopted.

REASONS FOR DECISION:

As is the case with other interconnection services discussed above, the Panel sees little difference between the requirements of federal and state laws on the subject of resale. Specifically, under § 252(d)(3) of the Act the following is required in regard to wholesale prices.

> "(3) WHOLESALE PRICES FOR TELECOMMUNICATIONS SERVICES. - For the purposes of section 251(c)(4), a State commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier."

Section 357(4) of the MTA [MCL 484.2357(4)] specified the following in regard to wholesale pricing.

> "(4) No later than January 1, 1996, each provider of local exchange service shall file tariffs with the commission which set forth the wholesale rates, terms, and conditions for basic local exchange services. The wholesale rates shall be set at levels no greater than the provider's current retail rates less the provider's avoided costs."

The FCC's pricing methodology, as well as the proxies it adopted in the area of wholesale pricing, are included in the stay ordered by the Eighth Circuit of the U.S. Court of Appeals. However, the state and federal laws specifying the concept of avoided costs and the specific costs which must be reviewed in that regard remain in effect. Once again the Panel will discuss its determinations regarding AT&T's and Ameritech's compliance with the FCC's resale regulations. Although these rules have been stayed, it is on this basis that AT&T's and Ameritech's proposals were developed in this proceeding. It is the Panel's belief that much, if not all, of the FCC's methodology is appropriate under both state and federal law. Therefore, the Panel has concluded that AT&T's proposal with certain modifications should be adopted in this case.

In establishing its proxy range which has now been stayed by the Eighth Circuit, the FCC used the MCI model with modifications described in its Order. The model specified accounts containing costs which would be avoided when services are sold at a wholesale level. These costs considered avoidable must be reflected and used to reduce retail prices in order to comply with the Act. With modifications and based on 1995 data for the RBOCs and GTE, the MCI model produced discount results ranging from 18.80% to 25.98%. The 25.98% figure is applicable to Ameritech (¶ 930 of the FCC Order).

AT&T proposes that wholesale prices be calculated by adjusting rates for avoided costs based upon its Avoided Retail Cost Model. The AT&T cost model results in a required discount for local service equal to 40.1% but instead AT&T proposes a baseline discount of 25% plus an additional volume discount depending on the number of lines purchased. AT&T's recommended 25% baseline discount is based purely on the subjective judgment of its witness, Mr. Henson, rather than on the

methodology put forth in its avoided cost model. In the Panel's opinion, AT&T seems to be indicating that the results of its avoided cost model are somewhat excessive for purposes of this proceeding. Therefore, AT&T advocates a position that appears to be a more reasonable estimate. Taking into account its proposed volume discounts, AT&T's proposed discount is probably still in the neighborhood of 30%-40% overall. It should be noted that the FCC found the AT&T Avoided Cost Model unsuitable for purposes of establishing a range for wholesale discount rates (¶ 924 of the FCC Order).

Ameritech's proposal, on average, produces wholesale rates approximately 13% below the applicable retail rate although different discounts are proposed for different services. Ameritech's study was based on TSLRIC information or a "bottoms/up" approach as opposed to AT&T's "top/down" approach where retail rates are reduced by avoided costs. The FCC's review of cost models was based on embedded costs, the "top/down" approach utilizing publicly available accounting information. The Panel notes discrepancies exist between the AT&T and Ameritech avoided cost studies. Some of the reasons for the difference are as follows. First, Ameritech believes costs in accounts 6621 (call completion services) and 6622 (number services) are the same in a retail and wholesale environment (Palmer's testimony, p. 26) whereas AT&T believes these costs are avoidable. Second, Ameritech insists it still incurs significant costs for resellers in the areas of product management (6611), sales (6612), advertising (6613), and customer service (6623) whereas AT&T believes these costs are also avoidable. Third, Ameritech believes uncollectibles are reduced in the wholesale environment. However, AT&T is of the opinion that these costs will no longer exist. Fourth, AT&T estimates that appropriately 20% of Testing Expense and Plant Administration

Expenses are avoided. On the other hand, Ameritech totally disagrees with this position. Finally, both parties address indirect expenses which are presumed to be avoided in proportion to the avoided direct expenses identified by each party.

Based on the above observations, the Panel finds the study results of both parties to be at the extreme ends of the spectrum. The approaches taken by each party are significantly different. AT&T's avoided cost model appears to be a rigid analysis where entire accounts are presumed avoidable with no allowance for possible netting of new costs that might occur in the wholesale setting. Ameritech, on the other hand, continues to insist that portions of certain accounts are still incurred in the wholesale environment and devotes significant resources to identifying new costs associated with the wholesale environment rather than identifying avoided costs which should be the main focus of any avoided cost study. The Panel believes the most reliable discount probably lies somewhere between Ameritech's 13% and AT&T's 40.1% based on its Avoided Cost Model. Therefore, consistent with the arbitration procedures adopted by this Commission in Case No. U-11134, the Panel selects the wholesale discount rate of 25% as proposed by AT&T. The Panel rejects AT&T's use of volume discounts as inappropriate when used to further adjust the wholesale discount rate. Volume discounts have no basis or relationship to possible avoided costs. It is the Panel's belief that Ameritech did not go far enough in the identification of avoided costs. Therefore, the Panel finds that AT&T's proposed discount of 25% should be adopted.

The Panel finds that a 25% discount rate should be applied uniformly to all Ameritech services required to be sold on a wholesale basis by the Act and/or the MTA. This discount is supported by the FCC's finding when applying the modified MCI model to Ameritech's expense levels. Consistent

with other pricing matters, the Panel recommends that the 25% discount should be applied on an interim basis to be replaced by prices set in further proceedings next year, under either federal or state law.

ISSUE 3

Whether the contract should impose mutual and reciprocal obligations upon both parties with respect to matters other than reciprocal compensation arrangements for transport and termination? Whether AT&T must offer reciprocal collocation arrangements when collocation has been requested from Ameritech?

DECISION:

The contract shall not contain language which imposes mutual and reciprocal obligations on both AT&T and Ameritech with respect to interconnection, access to right-of-way or matters other than reciprocal compensation for transport and termination. AT&T's proposed contract language at § 3.2.3 should be adopted. Ameritech's proposed footnote 3 in § 10.2 should not be incorporated in the Interconnection Agreement.

REASONS FOR DECISION:

In the Act of 1996, the obligations of incumbent local exchange carriers in § 251(c) exceed those placed on other local exchange carriers in § 251(a) and (b). These additional obligations may not be imposed upon non-incumbent providers (Footnote 57 and ¶ 1247 of the FCC's Order; 47 C.F.R. § 51.223 of the FCC's Rules).

Specifically, all LECs are bound by the general interconnection obligations of 47 C.F.R. § 51.100 along with resale, number portability, access to rights-of-way and reciprocal compensation

obligations delineated in 47 C.F.R. §§ 51.201, 51.203, 51.219 and 51.221 of the FCC's Rules. AT&T is bound by, and acknowledges reciprocal compensation obligations of § 251(b)(5) of the Act. The interconnection obligations of AT&T, however, are limited in nature and specifically do not include the collocation provisioning nor pricing obligations of 47 C.F.R. § 51.323. The Panel rejects Ameritech's attempt to expand AT&T's interconnection obligations to include collocation obligations in AT&T's central offices even where AT&T has requested interconnection through collocation in Ameritech's central offices. Tr. 160. In the opinion of the Panel, any applicable nondiscrimination requirements may prohibit AT&T from charging different prices for the same service to different customers. Tr. 289. It does not require that the rates charged by AT&T be the same as Ameritech's. The collocation obligations of § 251(c)(6) of the Act are simply not applicable to AT&T.

The resale obligations of AT&T also differ from Ameritech's and are discussed in ¶ 976 of the FCC Order and 47 C.F.R. § 51.603 of its Rules. The wholesale pricing obligations of 47 C.F.R. §§ 51.605, 51.607, 51.609 and 51.611 are imposed only on incumbent LECs. Likewise the resale restrictions of 47 C.F.R. § 51.613 are not applicable to AT&T. Although the Court has stayed the application of resale rules to ILECs, in no case would these obligations apply to a non-incumbent LEC such as AT&T. Resale obligations of incumbent and non-incumbent LECs are simply not the same under the Act.

In regard to issues related to right-of-way, the Panel notes that obligations in this regard are created pursuant to § 251(b) of the Act. However, the FCC noted in its Order that this did not restore to an incumbent LEC access rights which are expressly withheld under § 224 of the Act. The FCC, therefore, concludes that "no incumbent LEC may seek access to the facilities or rights-of-way

of a LEC or any utility under either § 224 or § 251(b)(4)" of the Act (¶ 1231 of the FCC's Order). Thus, the Panel believes that obligations regarding rights-of-way are simply not applicable to AT&T as they are to Ameritech. Therefore any proposal to impose reciprocal obligations in this regard should be rejected.

ISSUE 4

Whether Ameritech should be required to carry AT&T's transit traffic?

DECISION:

The Panel concludes that the contract should include a provision requiring Ameritech to interconnect at its tandem switch for calls originated by AT&T and handed off to Ameritech for transit through Ameritech's network before being terminated on the network of another local exchange provider. AT&T's contract language regarding transiting included in §§ A.3.3, 7.3.1, 7.3.3, 7.3.4, 13.7.2 and 13.7.3 should be adopted.

REASONS FOR DECISION:

The term "transit traffic" refers to calling between AT&T and a third party LEC that would be delivered by Ameritech over local/intraLATA trunks. AT&T has requested an arrangement with Ameritech to carry this transit traffic so that ubiquitous delivery of AT&T traffic to customers served by all local carriers can be assured. No new competitor will be able to enter the market with interconnecting facilities in place that would link it with every incumbent LEC or other competitive LEC. While Ameritech has agreed to provide this function, it maintains that it is not required to do so by the Act. The Panel disagrees with Ameritech's position.

Ameritech is required to provide access to a number of unbundled network elements including

the tandem switch element. This element is defined by the FCC to include "the facilities connecting the trunk distribution frames to the switch, and all the functions of the switch itself, including those facilities that establish a temporary transmission path between two other switches" (¶ 426 of the FCC's Order). Nothing in the definition limits this function to the transmission path between switches owned by Ameritech. The FCC concluded that the definition of a network element is not dependent upon the particular types of services that can be offered with that element (¶¶ 251 and 264). This supports the position that the function of the tandem switch must be offered to AT&T, thus allowing AT&T to provide whatever services it chooses. As was the case when the FCC reached its conclusions in the area of collocation, it is in the public interest and consistent with the policy goals of § 251 of the Act to require incumbent LECs to permit two or more providers to interconnect their networks at the incumbent's premises (¶ 594 of the FCC's Order).

Ameritech supports its position by reference to ¶ 176 of the FCC's Order which concludes that the term interconnection "refers only to the physical linking of two networks for the mutual exchange of traffic." Ameritech places emphasis on the word "two" in this statement. A closer reading of this statement in context, however, reveals that the emphasis of this part of the FCC's Order is to distinguish between the physical linking of networks and the transport and termination of traffic - not to limit interconnections to <u>two</u> networks alone. Section 102(k) of the MTA [MCL 484.2102(k)] in fact defines the interconnection which Ameritech is required to provide to "permit the connection between the switched networks <u>of 2 or more</u> providers." Nor is it proper for Ameritech to conclude that because other providers have agreed to Ameritech's temporary, non-obligatory provisioning of transiting service that this somehow allows for the conclusion that the service is not required to be

provided under the terms of the Act. In the agreements to which Ameritech refers, the transiting provision was not contested. This is the first opportunity the Commission will have to reach a decision on the obligatory nature of this service. In fact, Ameritech historically has connected carriers to each other in the interexchange market, by connecting calls from an IXC to a non-Ameritech end office through an Ameritech-owned access tandem. Nothing in the Act relieves Ameritech of that same duty in the local service market. The Panel concludes that transiting must be provided under the terms of the Act and the MTA. This conclusion is also supported by the fact that the provisioning of this service will advance competition. AT&T, however, is required to pay either directly or indirectly any charges assessed by the third party LEC for delivery of this traffic.

ISSUE 5

What interconnection points and methods shall be used for interconnection?

DECISION:

AT&T may interconnect for the transmission and routing of telephone exchange traffic, exchange access traffic, or both, at any technically feasible point within Ameritech's network. The Panel rejects AT&T's proposed contract language on this issue at §§ 3.2.2 and A.3.3.

REASONS FOR DECISION:

As discussed above, AT&T's interconnection obligations under the Act are not the same as Ameritech's. However, AT&T's proposed contract language is nevertheless deficient. AT&T must satisfy both obligations for interconnection delineated in 47 C.F.R. § 51.305. That is, points of interconnection must be both technically feasible and used for exchange or exchange access traffic. Both conditions are not delineated in AT&T's proposed contract language. Therefore, the Panel

concludes that AT&T's contract language should be rejected.

ISSUE 6

Whether AT&T may place hubbing equipment in collocated space in an Ameritech central office?

DECISION:

The Panel concludes that the Contract shall permit AT&T to locate hubbing equipment in its collocation space in Ameritech's central office. AT&T's contract language regarding hubbing contained in §§ A.3.3 and 12.5 and Schedule 12.15 should be adopted.

REASONS FOR DECISION:

Ameritech believes it is not permissible to utilize collocation space for the placement of hubbing equipment. Hubbing equipment is utilized for the purpose of performing regeneration on fiber optic strands utilized by AT&T in its SONET ring architecture. Individual SONET fiber optic cable contains up to ninety-six (96) strands of fiber, which require regeneration of the light beams at distinct points on the network. If AT&T is only allowed to bring into an individual end office those fiber strands "necessary" to carry traffic or network elements from that central office onto AT&T facilities, then the other fiber strands will have to be trenched from the ingress side of the office to the egress side of the office. In addition, this would require AT&T to lease space elsewhere to install duplicative signal regeneration equipment as part of its transmission of traffic.

In its August 8, 1996 Order, the FCC declined to decide this issue because it lacked an adequate record on the matter (¶ 581). However, it declined to require incumbent LECs to allow collocation of any equipment without restriction. Specifically it declined to "impose a general

requirement that switching equipment be collocated since it does not appear that it is used for the actual interconnection or access to unbundled network elements." Further it recognized "that modern technology has tended to blur the lines between switching equipment and multiplexing equipment, which we permit to be collocated" (¶ 581). In support of its position, Ameritech has categorized hubbing equipment as switching equipment (Ameritech PDAP, p. 70).

The Panel finds that a review of Ameritech's toll access tariffs does not support the conclusion that hubbing equipment is switching equipment (see Ameritech Tariff F.C.C. No. 2, 5th Revised Page 65, 3rd Revised Page 68.2 and 7th Revised Page 236). Instead a hub is described to be a wire center where "bridging, multiplexing or cross-connection functions are performed." As required in 47 C.F.R. 51.323, collocation is required of any type of equipment used, as opposed to necessary or indispensable as Ameritech contends at p. 69 of its PDAP, for interconnection or access to unbundled network elements. As concluded by the FCC with regard to § 251(c)(6), the used or useful interpretation of the term "necessary"

> ". . . is most likely to promote fair competition consistent with the purposes of the Act. . . . We can easily imagine circumstances, for instance, in which alternative equipment would perform the same function, but with less efficiency or at greater cost. A strict reading of the term 'necessary' in these circumstances could allow LECs to avoid collocating the equipment of the interconnectors' choosing, thus undermining the procompetitive purposes of the 1996 Act" (¶ 579 of the FCC's Order).

Therefore, the Panel concludes that hubbing equipment located in AT&T's collocated space meets the "necessary" standard of the Act and the FCC's rules and should be permitted.

ISSUE 7

Should standards of performance be specified now or be deferred to an Implementation Plan?

Should matters of non-compliance with standards of performance be referred to a specified dispute resolution procedure or to regulatory commissions and/or courts? Should credit allowances related to non-compliance with standards of performance be greater than or at parity with Ameritech tariff provisions?

DECISION:

Standards of performance for unbundled access, collocation and right-of-way should be deferred to an Implementation Plan. AT&T's proposed contract language in §§ 9.10.2, 12.18.1-12.18.4 and 16.25.1-16.25.4 and the majority of AT&T's proposed language on Schedule 9.10 should be adopted. The last AT&T proposed sentence on Schedule 9.10 would adopt measurements exceeding levels of Ameritech's own service. Therefore, this sentence should be deleted. Non-compliance with standards of performance should be referred to the dispute resolution process in § 28.3 of the Contract. AT&T's proposed contract language in §§ 3.8.5, 9.10.5, 10.9.5, 12.18.5 and 16.25.5 should be adopted. Credit allowances should be at parity with Ameritech tariff provisions. Ameritech's proposed contract language in §§ 3.8.6, 9.10.6, 10.9.6 should be adopted and should be incorporated in §§ 12.18 and 16.25 of the Agreement. Ameritech's proposed Schedule 10.9.6 should also be adopted. AT&T's proposed contract language in §§ 12.18.6.6 and 16.25.7 should be adopted.

REASONS FOR DECISION:

Ameritech and AT&T were able to reach agreement upon standards of performance which will be utilized and measured in regard to network interconnection and resale components of the proposed contract. Much progress is apparent in regard to the specification of performance standards

in the area of unbundled network components as well. It is important that standards of performance should be established in the area of unbundled network components and that performance standards be developed for collocation and right-of-way access as well. Such action is in compliance with the FCC's determination that there is a need to develop standards of performance to ensure that the provision of interconnection of elements is available on a nondiscriminatory basis (FCC Order, ¶ 311).

The Panel finds that standards of performance should be developed within the parameters of the Implementation Plan as proposed by AT&T. Further, the Panel finds that should disputes remain unresolved concerning standards of performance, the alternative dispute resolution process should be invoked to determine an appropriate outcome. This process should also be utilized to determine appropriate remedies and/or penalties should non-compliance with the performance standards occur. Finally, the Panel agrees with Ameritech that service credits should be limited to tariff provisions in accord with the Panel's determinations on indemnification and limitation of liability subsequently discussed.

ISSUE 8

Should late payment charges be assessed for delays in the reporting of access usage data? What time limits should be imposed on the reporting of errors in access usage data?

DECISION:

Late payment charges should not be assessed. Ameritech's proposed language at §§ 6.2.5, 6.2.6 and 27.6 of the contract should be rejected. However, Ameritech's proposed language regarding reporting of errors in access usage data at § 6.3.1 of the contract should be adopted.

REASONS FOR DECISION:

Ameritech has proposed that late payment charges be assessed either by itself or by AT&T if there is a delay in the reporting of access detail usage. Ameritech's only support for this position was that such charges are "standard in meet point billing arrangements in the industry" (p. 3, October 2, 1996 Ameritech Memorandum accompanying the Submission With Regard to Resolved Issues). In review of tariff language on meet point billing arrangements in Ameritech's access tariff, the Panel found no reference to the late payment charges. In addition, a review of the most recently filed meet point arrangements between incumbent LECs does not include late payment charges. The Panel therefore rejects Ameritech's proposal since it is not supported by the record.

Both Ameritech and AT&T have proposed time limits during which the reporting of errors in access usage data must occur. Ameritech's proposed time limit of 30 days has not been utilized in other negotiated agreements presented to this Commission for approval nor to the Panel's knowledge, is such a timeframe included in existing access tariffs. AT&T's proposed time limits, on the other hand, would apparently impose a time limit included in other agreements to which Ameritech is not a party. No support for either of these positions was presented in the record. Therefore, given the two alternatives, the Panel finds that Ameritech's proposal should be adopted.

ISSUE 9

Whether AT&T should have unbundled access to AIN (Advanced Intelligent Network) triggers? Whether a joint AT&T/Ameritech study team should investigate the technical aspects of this issue?

DECISION:

The Panel finds that unbundled access to AIN trigger should not be required at this time. A joint study team shall not be appointed to investigate this issue.

REASONS FOR DECISION:

The Panel finds that Ameritech's proposal is consistent with the FCC's regulations. In the section of its Order concerning signaling links and databases, the FCC declined to find direct access to AIN triggers technically feasible (¶ 502 of the FCC Order). Under Ameritech's proposal, if AT&T purchases the local switching element, AT&T will be able to use Ameritech's AIN triggers in the same manner, via the same signaling links, as Ameritech itself. However, AT&T would not be permitted to further unbundle the switch to interconnect its own AIN to Ameritech's AIN triggers.

The Panel is persuaded by Ameritech's testimony that direct, unmediated access to AIN triggers is not technically feasible at this time. As pointed out by Ameritech's witness, Mr. Heinmiller (p. 25 of Testimony), AIN was not designed to accommodate multiple service-provider network interconnection. Mediation is necessary to ensure network integrity and reliability when a third party is given access to AIN triggers and this is currently being studied by various industry fora.

AT&T admits that technical issues remain concerning this issue. According to Ameritech testimony, AT&T personnel participated in a study group which concluded that additional work was required to resolve issues relating to multiple third party access to AIN triggers. Therefore, the Panel finds Ameritech's argument convincing that granting AT&T direct, unmediated access to Ameritech's AIN triggers would pose serious threats to Ameritech's network integrity and reliability. In light of ongoing investigations by industry fora and the FCC's intention to further address this issue early in

1997 (¶ 502 of the FCC Order), no other joint study team need be appointed to investigate this issue.

ISSUE 10

Should Ameritech offer the Unbundled Element Platform without Operator Services as a standard offering to AT&T?

DECISION:

The Panel finds that the combination called "Unbundled Element Platform without Operator Services," should be required as a standard offering in the parties' interconnection agreement. Therefore, AT&T's proposed contract language at § 9.3.4 and in Schedule 9.3.4 should be adopted.

REASONS FOR DECISION:

Ameritech offers two reasons for disputing this offering. First, Ameritech has yet to determine how it will price the selective routing entailed by this combination. Secondly, Ameritech contemplates AT&T would provide selective routing for calls to an Operator Service/Directory Assistance and Ameritech does not know if this is technically feasible, and if it is, whether AT&T will pay the cost of providing it.

The Panel fails to see the logic of Ameritech's willingness to offer Operator Services as an unbundled element while refusing to extract this unbundled element from a proposed combination of unbundled elements. The FCC required incumbent LECs to combine requested elements in any technically feasible manner (FCC Order, ¶¶ 293-295). Ameritech indicates it is willing to offer this combination except that costs cannot be ascertained in advance. Ameritech has not demonstrated to this Panel that this offering is technically infeasible. Ameritech's lack of knowledge of how to price this offering is no reason to deny this combination to AT&T.

ISSUE 11

What is the appropriate language to be included in schedules on unbundled access and collocation not specifically addressed elsewhere in this Decision of the Arbitration Panel?

DECISION:

Disputed language on the Schedules attached to Article IX, Unbundled Access, and Article XII, Collocation should be determined as specified as in the Reasons for Decision section for this issue or as agreed to by Ameritech and AT&T.

REASONS FOR DECISION:

A number of disputes remain regarding alternative language to be included in Schedules attached to Articles IX and XII of the Contract. Many of these disputes are quite technical in nature; others are of seemingly little importance. In most cases, no or little specific support and no oral discussion occurred relative to these matters. The Panel proposes that the following principles be applied in determining which language to adopt. Schedule language must comply with decisions reached elsewhere in this document. Interoffice transmission facilities must join wire centers or switches; Ameritech is not required to provide interconnection between AT&T customers and Ameritech switches (47 C.F.R. 51.319(d)(1)). Where proposals are technically feasible and provided in the manner requested to other customers or to Ameritech affiliates, such interconnections may be included in the Schedules. However, AT&T may not obtain interconnections free of charge unless the connections at issue are provided in this manner to other Ameritech customers. Language which is already stated elsewhere in the contract or which is already a matter of law need not be included specifically in the Schedules. When disputes exist regarding timeframes necessary to accomplish a

task, the shorter timeframe shall be adopted. Some of the disputes shall be resolved as specified below. Any of the disputes may be resolved as agreed to by the parties.

The Panel does specifically find that Schedule language should be adopted as follows:

Schedule 9.2.4	Adopt AT&T's proposed language at ¶ 1.4.
Schedule 9.2.5	Delete last AT&T proposed sentence at ¶ 3.1.1.
Schedule 9.2.6	Adopt language consistent with specific rulings on § 10.13 of the Contract as discussed below.
Schedule 9.5	Adopt AT&T's proposed language at ¶¶ A.1.2 and A.1.3.
	Adopt AT&T's proposed language at ¶ A.1.3 1.6.
	Reject AT&T's proposed language at ¶¶ A.1.13 1.9 and A.1.14 1.10.
	Adopt AT&T's proposed language at ¶ 2.2.5.
	Reject Ameritech's proposed language at ¶ 4.1.4.
	Reject AT&T's proposed language at ¶¶ 4.1.5 and 4.1.7.
	Adopt AT&T's proposed language at ¶ 4.2.4.
	Reject AT&T's proposed language at ¶ 6.1.1.
Schedule 12.12	Adopt Ameritech's proposed language at ¶ 3.3.
	Reject AT&T's proposed language at ¶¶ 3.4-3.10.

ISSUE 12

What advance written notification of Operations Support Systems changes should be required?